

**DEPARTMENT OF GENERAL SERVICES
OFFICE OF PUBLIC SCHOOL CONSTRUCTION**501 J Street, Suite 400
SACRAMENTO, CA 95814

March 12, 1996

To : All School Districts and County Superintendents of Schools

Subject: Minority/Women Business Enterprise (M/WBE) regulations and District
Reorganization policy

The State Allocation Board (SAB) addressed two issues at its February 28, 1996 meeting. One relates to the repeal of its M/WBE regulations and the other addresses a policy regarding those districts currently involved in reorganization. A copy of the SAB actions regarding these issues are attached for your convenience.

DISCONTINUANCE OF THE M/WBE REGULATIONS

The SAB elected to repeal, on an emergency basis, its regulations that require goal participation for contracts over \$10,000 for Minority Business Enterprise of at least 15 percent and Women Business Enterprise of at least five percent or that meet the good faith effort provisions. The repeal of the regulations apply both to the Lease Purchase and the State Emergency Portable Programs. The Office of Public School Construction (OPSC) is in the process of submitting the request to repeal these regulations with the Office of Administrative Law (OAL). Once the OAL has received this request, the OAL must review and, if approved, file the emergency repeal with the Secretary of State within ten days. The repeal of the regulations becomes effective the date the emergency repeal is filed by the OAL with the Secretary of State and is good for 120 days. The permanent repeal process will also be started at that time. You will be notified by the OPSC of the date the regulations are repealed.

Please note that the SAB did not take action to discontinue the Disabled Veteran Business Enterprise (DVBE) requirements; therefore, that program is still in effect and any contract that exceeds \$10,000 must comply with the participation goals of three percent or meet the good faith effort requirements.

Since the M/WBE regulations are still effective until they are filed with the Secretary of State, districts are advised to continue to comply with the M/WBE regulations until notice has been received by the OPSC of the effective date of the repeal of the regulations. This should occur within two weeks. Contracts awarded up to the date of the repeal of the regulations must comply with the M/W/DVBE provisions. On or after that date, contracts need only comply with the DVBE requirements. If districts have a bid package in process that contains the M/WBE provisions and the anticipated award will not be made until after the repeal of the regulations, the district may do either of the following:

1. Continue with the bid specifications and have the M/WDVBE requirements reviewed and approved by the OPSC even though the contract technically does not have to comply with the M/WBE provisions.
2. Issue an addendum to the bid specifications and delete the M/WBE requirements. This is not recommended until the regulations are repealed and the bid opening date is scheduled after that date.

After the regulations have been repealed, districts should not include the M/WBE requirements in the bid specifications. The OPSC will discontinue review for M/WBE compliance after the repeal date of the regulations.

DISTRICT REORGANIZATION POLICY

The SAB also approved a policy regarding the reorganization of districts (usually by unification election) that requires the affected districts to submit enrollment information of the pupils lost to the proposed new district. The OPSC will suspend any further processing of the district's applications until this information is received. Once the information is received, the OPSC will continue to process and the SAB will continue to approve the district's applications until such time as the election occurs. As of that date, all application approvals will be suspended for the affected districts until a determination of the district's eligibility has been made based on post election data. The new district also has the authority to file an application and the SAB will approve the request, if it has eligibility, after the appointment or election of the governing board of the new district.

If you have questions or need further assistance, please contact your project manager or call (916) 445-3160.

Sincerely,

Oscar Wright
Executive Officer
Office of Public School Construction

